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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION**

BRIAN HEINZ individually and on behalf
of all others similarly situated,

Case No. 2:23-cv-00282-WBS-AC

CLASS ACTION

**DECLARATION OF BRIAN HEINZ IN
SUPPORT OF PLAINTIFF'S
OPPOSITION TO DEFENDANT
AMAZON.COM, INC'S MOTION TO
TRANSFER**

AMAZON.COM, INC. and DOES 1 to 10,
inclusive, and each of them,

Assigned to the Hon. William B. Shubb

Action Filed: January 11, 2023
Action Removed: February 15, 2023

DECLARATION OF BRIAN HEINZ

I, Brian Heinz, declare as follows:

1. I am over the age of eighteen years and am the plaintiff in this action. If called upon as a witness, I could and would competently testify to the facts set forth below, as I know each to be true based on my own personal knowledge.

6 2. I am a resident of California and have been at all times relevant to this lawsuit.

7 3. On or around July 2022 through September 2022, using my cellular phone, I visited
8 Amazon's website and had conversations with Amazon via the chat feature on the Amazon
9 website. The conversations included inquiries about shipping disputes related to products
10 purchased on the Amazon website. At no time during these conversations was I informed that these
11 conversations were being recorded.

12 4. I have reviewed that Declaration of Eugide Matondo and disagree with his
13 descriptions of the events.

14 5. When I initially signed up for an Amazon account and at all times after that, I was
15 never aware of Amazon's contracts. When signing up and when placing orders, I never saw
16 hyperlinks to the contracts. I never clicked on those links and never read or knew about the
17 contracts.

18 6. Mr. Matondo states that I became an Amazon customer on April 12, 2015, and
19 accepted Amazon's contracts on that date. These contracts can only be viewed if I clicked on
20 hyperlinks which I never noticed. He states that I have "affirmatively agree[d]" to what he calls
21 "conditions of use" and a "privacy notice." Mr. Matondo states when signing up, signing in, or
22 purchasing a product, I agreed to these "conditions of use" because there is a sentence in light grey
23 font which says, "By continuing, you agree to Amazon's Conditions of Use and Privacy Policy."

24 7. Looking at the statement itself now, I can barely make out the small print with a
25 hyperlink to the conditions of use and privacy policy in it. My attention is drawn to the large
26 yellow button which states “Continue” and fills up the majority of the page. The print under the
27 continue button is much smaller than the other words on the page and is in a grey font which makes

1 it difficult to read. While the words “Conditions of Use” are in a light blue color, they do not stand
2 out from the other light blue fonts on the screen.

3 8. When agreeing to a contract on a website, I usually expect that I have to click an "I
4 agree" button. I also expect that if there is a hyperlink to a contract, that that the hyperlink is usually
5 underlined and in all caps and is in larger font. When simply signing into Amazon, I would not
6 expect that I was agreeing to a contract every time.

7 9. The contract is also called “conditions of use” which is confusing. I would expect
8 that contract would use statements like “terms of the agreement” or “terms of the contract” and
9 not “conditions of use.”

10 10. I was never provided a copy of the contracts and never read the “conditions of use”
11 or “privacy policy.”

11. It would be highly inconvenient and costly for me to travel to the state of
12 Washington for trial or any other purpose relating to this lawsuit which is why I chose to file the
13 lawsuit in the County of Yolo where I reside. It seems unfair that Amazon can make me litigate
14 this case in Washington state when I never knew about these terms. I never had to sign an
15 agreement saying that I agree that all lawsuits related to Amazon had to be filed in the state of
16 Washington. I never agreed that all lawsuits related to Amazon would have to be filed in the state
17 of Washington.
18

19 I agree under the penalty of perjury that the above statements are true and correct under the
20 laws of the United States.

21 Date: 06 / 01 / 2023

By: 
Brain Heinz